

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

LAWRENCE E. DALE,

Plaintiff,

v.

Case No. 2:06-cv-14  
HON. R. ALLAN EDGAR

WE ENERGIES, et al.,

Defendants.

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**REPORT AND RECOMMENDATION**

Plaintiff Lawrence Dale filed this pro se action against defendants WE Energies and Trans Union LLC on January 12, 2006. The court entered a Case Management Order that required the parties to provide Rule 26(a) disclosures by May 4, 2006. Defendants provided disclosures, but plaintiff never provided disclosures to defendants. Defendants filed a motion for Rule 37 sanctions against plaintiff. The court issued an order on October 4, 2006, requiring plaintiff to provide Rule 26 disclosures by October 19, 2006. The order warned plaintiff that “[f]ailure to provide Rule 26 disclosures will result in a recommendation that this action be dismissed.”

Defendants have provided a Joint Notice filed October 24, 2006, indicating that plaintiff has failed to provide Rule 26 disclosures. Rule 37(b)(2)(C) provides that dismissal of an action is an appropriate sanction for failing to follow a court order. Plaintiff failed to comply with two orders of this court. After plaintiff’s first failure to comply with the Case Management Order, plaintiff was ordered to provide Rule 26 disclosures and given an extended date to comply. Plaintiff was warned that a recommendation of dismissal would result if he failed to comply with the court

order. Plaintiff has again ignored the court order. In the opinion of the undersigned, this action should be dismissed.

Accordingly, it is recommended that the court dismiss plaintiff's complaint.

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within ten (10) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3(b). Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). *See also Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley

TIMOTHY P. GREELEY

UNITED STATES MAGISTRATE JUDGE

Dated: October 27, 2006